

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BRIAN GUTH,

Plaintiff,

v.

Case No. 2:21-cv-106-JLB-NPM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

Before the Court is Defendant's Opposed Second Motion for Stay of Proceedings (Doc. 15) and Plaintiff's Response (Doc. 18). For a second time, Defendant requests this action be stayed in order to produce a certified transcript of the record and file an answer. (Doc. 15). In the second motion, Defendant updates the Court on new measures implemented by the Commissioner to process the certified administrative record and attaches an updated affidavit of the executive director of the Social Security Administration's Office of Appellate Operations. (Doc. 15, pp. 1-4; Doc. 15-1). In sum, the pandemic has impacted the agency's operations and it has a backlog of actions awaiting certified transcripts, but the agency has implemented new measures to overcome the backlog. (Doc. 15, pp. 2-4).

Plaintiff argues the Commission has not provided the specific status of preparing Plaintiff's transcript, including the number of cases ahead of Plaintiff file. (Doc. 18, p. 2). Plaintiff requests that if the Court grants an extension, it be no more than thirty days. (Doc. 18, p. 4). Finally, Plaintiff asserts that the Commissioner can give greater priority to this case at the expense of cases which do not oppose the motions to stay. (Doc. 18, p. 4).

A court has broad discretion whether to stay a proceeding "as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706-707 (1997). The court must weigh the benefits of the stay against any harms of delay. *Id.* at 707. Here, the Commissioner has provided good cause to extend the deadline to file the certified transcript and answer. But the Court finds an additional sixty-day extension would cause undue delay. After considering the circumstances, the Court will extend Defendant's deadline to file a certified transcript and to answer by thirty days.

A stay of the proceedings is unnecessary, and so the Opposed Second Motion for Stay of Proceedings (Doc. 15) is **DENIED**. Instead, the Court extends the deadline for Defendant to file a certified transcript and answer to **August 9, 2021**. No further extensions will be granted without a detailed and case-specific showing that the Commissioner made a diligent effort to comply with the Court's deadline.

ORDERED in Fort Myers, Florida on July 16, 2021.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE